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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-ninth session
Agenda item 10 (a)

FREEDOM OF MOVEMENT

THE RIGHT TO LEAVE ANY COUNTRY, INCLUDING ONE'S OWN,
AND TO RETURN TO ONE'S OWN COUNTRY, AND THE RIGHT
TO SEEK ASYLUM FROM PERSECUTION

Ms. Attah, Mr. Bossuyt, Mr. Boutkevitch, Mr. Chernichenko,
Ms. Daes, Mr. Diaz Uribe, Mr. Eide, Mr. El-Hajjé,
Mr. Fix Zamudio, Mr. Hatano, Mr. Lindgren Alves,
Mr. Maxim, Mr. Mehedi, Ms. Palley, Mr. Weissbrodt
and Mr. Yimer: draft resolution

1997/ ... The right to return

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming the right of every person to return to his or her own country, as enshrined in article 13.2 of the Universal Declaration of Human Rights and article 5 (d) (ii) of the International Convention on the Elimination of All Forms of Racial Discrimination, and the prohibition of arbitrary deprivation of the right to enter one's own country contained in article 12.4 of the International Covenant on Civil and Political Rights,

Recalling its resolution 1996/9 of 23 August 1996 in which it affirmed the right of refugees and internally displaced persons to return voluntarily, in safety and dignity, to their country of origin and/or within it to their place of origin or choice, and in which it decided to continue to study the question of the freedom of movement, including the right to return,

Recognizing the fundamental significance of the observance and promotion of the right to return voluntarily to one's country or place of origin as a principal means of resolving the problems and suffering of refugees and internally displaced persons,

Conscious that the arbitrary deprivation of nationality, prohibited by article 15.2 of the Universal Declaration of Human Rights, constitutes a violation of a fundamental and inalienable human right and an impediment to the right to return to one's country,

Recalling further the Convention of the Reduction of Statelessness,

Aware of Commission on Human Rights resolution 1997/36 of 11 April 1997 entitled "Human rights and arbitrary deprivation of nationality", in which the Commission reaffirmed the importance of the right to nationality of every human person as an inalienable human right, recognized that arbitrary deprivation of nationality on racial, national, ethnic or religious grounds is a violation of human rights and fundamental freedoms, and called upon all States to refrain from taking measures and from enacting legislation that discriminates against persons or groups of persons on grounds of race, colour or national or ethnic origin by nullifying or impairing the exercise, on an equal footing, of their right to nationality, and to repeal such legislation if it already exists,

Concerned that the plight of many refugees in certain parts of the world may represent a serious denial of their right to return and of their right to a nationality, and is likely to result in a serious increase in the phenomenon of statelessness,

1. Reaffirms the fundamental right of refugees and internally displaced persons to return voluntarily, in safety and dignity, to their country of origin and/or within it to their place of origin or choice;

2. Emphasizes the crucial importance of the right to return voluntarily to one's country or place of origin as a principal means of long-term resolution of the plight of refugees and internally displaced persons;

3. Reaffirms the fundamental and inalienable nature of the right of every human person to a nationality;

4. Emphasizes its opposition to all instances of arbitrary deprivation of nationality, especially those based on racial, national, ethnic or religious grounds, as a violation of human rights and fundamental freedoms and an impediment to the right to return to one's country;

5. Urges all States to respect and promote the right to return and the right to a nationality;

6. Particularly urges Governments of host States and Governments of countries from which refugees have fled or been driven out actively to negotiate with each other and, where negotiations have not yet been successful, to use the good offices of the Secretary-General or of the United Nations High Commissioner for Human Rights, or neutral third party mediation, and to include representatives of the refugees and of the Office of the United Nations High Commissioner for Refugees, in a genuine and concerted effort to resolve such long-standing questions, the primary purpose of such negotiations being to enable the voluntary repatriation of the refugees to their country of origin without further unnecessary delay, using where necessary the mechanism of an internationally monitored verification process to determine, in accordance with international legal principles, which of the refugee population have the right to return;

7. Requests the United Nations High Commissioner for Refugees to take all necessary steps, in line with the Convention on the Reduction of Statelessness, to ensure that refugees do not become stateless;

8. Calls upon Governments to revise their citizenship laws, with the technical assistance of the Centre for Human Rights and with the advice of the Office of the United Nations High Commissioner for Refugees so that these laws are brought into accord with international human rights law and with the Convention on the Reduction of Statelessness;

9. Decides to keep this matter under consideration at its fiftieth session.